

## REMARKS

Claims 19-38 have been rejected under 35 USC 102(e) as anticipated by Billhartz. The rejection is respectfully traversed.

The invention is related to a system and method for routing data packets. A first transmission path is assigned a maximum traffic distribution weighting, while another path is assigned a minimum traffic distribution weighting (e.g. zero). Nodes in the system turn to the path with the minimum traffic distribution weighting only when the adjacent router or next hop is no longer reached by any other path having a positive (e.g. greater than 0). Significantly, this helps to eliminate circulation of packets in the network.

Billhartz discloses a method of transmitting a QoS route request to discover routing based upon a QoS parameter, and the route request includes a flow identifier and a QoS link metric. The reference generally discusses the use of minimum bandwidth and maximum delay as categories of QoS for use in allocating transmission paths. As noted, in the claimed invention, the transmission path with the minimum traffic distribution weighting is used only when the adjacent router or next hop is no longer reached by any other path with a positive weighting. For example, the claimed invention (as amended) requires that the second (or third, or fourth) path is only used when no other transmission path has a positive traffic distribution weighting. This feature is not disclosed in Billhartz. Rather, referring to paragraphs [0080]-[0081] of the reference, the system monitors link performance of a first channel and scouts one or more available channels when the link performance on the first channel falls below the QoS threshold. The scouting unit 82 switches to a second channel to determine the link performance for the second channel, and switches back to the first channel if the link performance on the second channel is above the QoS threshold. However, in the claimed invention, the second (or third, or fourth) transmission path is not switched to unless (only when) no other path is with a positive weighting is available. Clearly, this is not the case with Billhartz.

In view of the above, Applicants submit that this application is in condition for allowance. An indication of the same is solicited. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing, referencing Attorney Docket No. 119010-096.

Respectfully submitted,

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